

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

STATE ENTERPRISE RESEARCH-  
INDUSTRIAL COMPLEX "PAVLOGRAD  
CHEMICAL PLANT,"

Plaintiff,

v.

PETROLEUM & MATERIALS LLC.,

Defendant.

CIV. NO. 2:18-CV-02510-ADS-AKT

**AFFIRMATION IN SUPPORT OF  
REQUEST FOR CERTIFICATE  
OF DEFAULT**

Jeffrey E. Glen hereby declares as follows:

1. I represent the plaintiff, State Enterprise Research-Industrial Complex "Pavlograd Chemical Plant," ("Pavlograd") in this action.
2. This action was commenced on to April 27, 2018 to enforce a foreign arbitral award issued by the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce on June 20, 2017, in the amount of \$937,380, inclusive of costs and fees. Copies of the Award and supporting papers are attached herein, filed April 27, 2018, Document No. 1.
3. The Summons herein was issued on April 30, 2018, Document No. 4.
4. The Petition and Summons were served on May 11, 2018, on the Secretary of the State of New York as agent of the defendant. The Summons was returned executed on May 18, 2018, Document No. 5. Defendant is a New York limited liability company ("LLC") and service on such company by service on the New York State Secretary of State is authorized by Section 303 of the New York Limited Liability Company law. Thus, service is proper under Rule 4(h)(1)(B) of the Federal Rules of Civil Procedure.

5. That defendant, Petroleum & Materials LLC., is neither an infant, an incompetent person, nor presently in the military service of the United States as appears from facts in this litigation.

6. The time for defendant, Petroleum & Materials LLC., to answer or otherwise move with respect to the complaint herein expired on June 3, 2018. Fed.R.Civ.Proc. 12(a)(1).

7. Defendant, Petroleum & Materials LLC., has not answered or otherwise moved with respect to the complaint, and the time for defendant, Petroleum & Materials LLC., to answer or otherwise move has not been extended.

8. However, on June 1, 2018, I received by Certified Mail, a letter apparently from Dewan Bachai, General Director of the Defendant LLC., referring to the allegations of the Petition and stating “I would like to have my day I court . . . .” A copy of the letter and the attachments thereto is attached as **Exhibit 1**. A copy of the Certified Mail envelope, bearing the address of the Defendant as 350 Vets Highway, Commack, NY 11725 is attached as **Exhibit 2**.

9. While the aforementioned letter is unsigned, I infer from the statement therein that “I signed contract #400021-16 . . . .” means that Dewan Bachai, whose signature is on the referenced attachment to the letter, is the author of the letter.

10. On June 6, 2018, I wrote to Mr. Bachai at the address on the Certified Mail envelope, which is the same address used in the Petition and given to the New York Secretary of State for notifying the Defendant LLC. In that letter, a copy of which is attached as **Exhibit 3**, I noted that a LLC must appear in an action in Federal Court by counsel, and offering, if Defendant retains counsel, to extend the time for Defendant’s appearance through June 20, 2018.

11. On June 18, 2018, I received, in an envelope from a law firm apparently located at 350 Veterans Memorial Highway, Commack, NY 11725, the letter I had sent to Mr. Bachai on June 6, with the notation “return to sender – person unknown.” A copy of the law firm’s envelope and a copy of my envelope with the above quoted notation are attached as **Exhibit 4.**

12. I am mystified as to how Mr. Bachai was able to receive the Petition and Summons at the address of the Defendant on record at the New York Secretary of State, send me a letter dealing in detail with the allegations of the Petition, and be a “person unknown” at the very same address.

13. Whatever the explanation, Defendant is in default of appearing and answering, and since the Petition is for a sum certain, a default must be entered by the Clerk against the Defendant pursuant to Fed.R.Civ.Proc. 55(a), and a default judgment for the amount demanded in the Petition and costs must then be entered by the Clerk against the Defendant pursuant to Fed.R.Civ.Proc. 55(b)(1).

WHEREFORE, Plaintiff, Pavlograd, requests that the default of defendant, Petroleum & Materials LLC., be noted and a certificate of default issued.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief, that the amount claimed is justly due to plaintiff, and that no part thereof has been paid.

Dated: June 21, 2018

ANDERSON KILL P.C.

By: /s/ Jeffrey E. Glen

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